

## SUBCOMMITTEE NO. 4

## Agenda

Senator Mike Machado, Chair  
Senator Robert Dutton  
Senator Christine Kehoe



Thursday, March 8, 2007  
10:00 a.m. or upon adjournment of session  
Room 112

Consultant: Dave O'Toole

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***VOTE-ONLY ITEMS***

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**VOTE on Vote-Only Items:**\_\_\_\_\_

## DISCUSSION ITEMS—DEPARTMENTS

### 0502 Office of the Chief Information Officer

The Administration requests 49 positions and \$7.8 million (Department of Technology Services Revolving Fund) to establish a centralized information technology (IT) management department and ensure that project specific activities are coordinated with other departments and reflect the state's policies and direction for IT development.

This request stems from the passage of Chapter 533, Statutes of 2006 (SB 834, Figueroa), which established an Office of the Chief Information Officer (OCIO) and proscribed duties including (1) advising the Governor on IT issues, (2) minimizing overlap and redundancy of state IT operations, (3) coordinating the activities of agency information officers, (4) advancing organizational maturity and capacity in IT management, and (5) establishing performance measures for IT systems and services.

According to the bill author's office, "Though the state has a chief information officer, it is not a statutory position, but a designation given to one of the governor's employees, thus the CIO has no specific authority...Experts, both inside and outside of state government, have been calling for the establishment of a statutory CIO."

As envisioned by the Administration, the OCIO would incorporate the project oversight and review function of the Department of Finance's Office of Technology Review, Oversight, and Security (OTROS). (Information security components of OTROS would shift to the State and Consumer Services Agency.) Twenty-six positions in OTROS would shift to the OCIO to continue the project oversight and review activities.

The Administration has submitted trailer bill legislation (see Appendix A) eliminating the SB 834 provisions and replacing them with broader authority and responsibilities and consolidating OTROS into the OCIO.

**LAO Comment:** The LAO has raised the following concerns with the Administration's proposal:

***Planning, Policies, and Standards Makes Sense at CIO.*** We believe that the administration's proposal to place responsibility for the state's IT planning, policy, and standards with CIO makes sense. The CIO's knowledge of IT industry tools and trends makes this a natural alignment. The CIO role will tend to involve advocacy for those projects which are consistent with these policies and promote the state's IT strategic plan. We do, however, have concerns with other aspects of the proposal.

***Overly Ambitious Plans for CIO.*** In organizing the CIO, the budget proposal lists 15 major goals that will come from its formation—including improving IT procurements, enhancing training of state staff, and reorienting the state's Web pages. There is no prioritization reflected in the proposal. Particularly in CIO's early years, we are concerned that such an aggressive agenda will result in reduced effectiveness. In fact, the same problem plagued DOIT during its existence. In a 2003 report, the Bureau of State Audits found that "DOIT

*attempted to make inroads on many issues, perhaps too many issues, all at once. This scattershot approach did not allow it to garner accomplishments that would engender support and credibility.”*

**Separating Approval From Funding Creates Risks.** *The CIO would have no project funding authority, which would remain with DOF’s budget staff. In theory, CIO would turn over an approved project to DOF to be fully funded. In practice, however, this could be a challenging process to manage and would require a high level of coordination and information sharing between DOF and CIO. The proposal provides no plan for coordinating project approval and funding.*

**Departments could end up with a project approved by CIO’s office and still be denied funding by DOF.** *This is another problem that contributed to DOIT’s failure. At the time, DOIT’s responsibility was to approve project plans based on sound management practices and DOF’s responsibility was to approve project budgets. Yet, DOF often approved projects at funding below the level recommended by DOIT. Eventually, DOIT’s role became diminished because it did not have the financial clout to support its decisions.*

**Oversight Must Be Independent.** *As a control agency, DOF performs the role of dispassionate review of state programs and projects. This makes its IT oversight more effective by adding objectivity to the process. We are concerned, however, that CIO’s advocacy for projects will limit its ability to provide an independent perspective on oversight.*

**Security Proposal Would Add Unnecessary Layer.** *Information security has not received priority within DOF. Security policies can increase costs, which runs counter to DOF’s core mission of controlling costs. Moving the security program out of DOF, therefore, is a positive step. The administration’s choice in moving IT security to SCSA appears to be an effort to follow industry practices to separate the CIO from security. To the extent that projects will receive security reviews by SCSA under the new structure, however, it would add another cumbersome layer of review in addition to CIO and DOF. It is also unclear how policies issued by CIO would be integrated with security policies issued by SCSA.*

The LAO recommends the following alternative structure:

*Based on the concerns raised above, we recommend that the Legislature amend the administration’s proposed IT governance structure. Our recommendation emphasizes CIO’s role as a strategic office, while maintaining specific project review and approval at DOF. We describe our alternative below.*

**Strategic Planning, Policies, and Standards.** *The administration’s proposal to place these responsibilities with CIO makes sense. The CIO would be the state’s IT program expert and should be responsible for its planning and policy development.*

**Project Review, Approval, and Oversight.** *The current IT project funding and oversight structure has produced a reasonable approach to identifying and managing project risks and has provided balance between risk management and funding constraints. One key component is that DOF has the authority to*

approve, fund, and oversee a project. In addition, particularly in the short term, CIO will have other priorities upon which to focus. Adding the management of every state IT project to CIO's workload will stretch its capabilities, even with OTROS staff relocated. We therefore recommend that OTROS's project review and oversight roles remain at DOF. The CIO would still be involved in the development of key IT projects. The CIO's involvement, however, would be from a strategic perspective rather than the "nuts and bolts" of detailed reviews.

**Information Security.** Information security should receive more focus than it has received under the current structure. Creating a third IT review office (in addition to CIO and DOF), however, could unnecessarily hinder project reviews. We instead recommend that the security function be included within CIO's policies and standards role. As CIO issues statewide policies, it should include the perspective of how security is affected and data could be better protected. The three security positions currently at DOF should be transferred to CIO. We recommend leaving the Office of Privacy Protection within Department of Consumer Affairs where it can continue its consumer-oriented role.

**Staff Comment:** In its postmortem on DOIT, *Information Technology: Control Structures Are Only Part of Successful Governance*, the Bureau of State Audits (BSA) opined that the problems DOIT was created to solve had not gone away. The BSA concluded:

- *DOIT faced many challenges, including its composition and organizational placement, an all-encompassing charter to be both an advocate and a control organization, and the inability of state IT stakeholders to collaborate.*
- *Effective IT governance at the state level can be achieved under widely varying structural and procedural arrangements.*
- *Successful IT governance models tend to have the support of executive leaders, a participative leadership style, and an incremental approach to development and implementation of IT initiatives.*
- *Regardless of their approach to IT governance, states face common challenges that lack universal solutions, including the degree of centralization of IT functions and standardization of IT systems, turnover in administrations, lengthy budget cycles, and an aging workforce.*

The same BSA report identified the following key IT governance decisions:

- *Determine the role and responsibilities of the state CIO and the amount of authority to vest in that position. Decisions with respect to policy making, project approval and oversight, IT procurement, and operations, will drive the size and nature of the IT governance structure required to accomplish the CIO's purpose.*
- *Determine the appropriate degree of centralization and consolidation of IT services.*
- *Determine the appropriate degree of standardization that should take place in statewide IT applications.*
- *Establish the proper level of outsourcing for IT activities.*
- *Develop a strategy to mitigate the interruptions and distractions from statewide IT initiatives caused by the periodic turnover of state administrations.*
- *Develop a strategy to mitigate the delays and negative effects caused by the length of the budget cycle on the approval and implementation of IT projects.*

- *Determine the proper balance between the creation of IT-specific plans with agencies' desires for integrated business plans.*
- *Develop a strategy to minimize the disruption that will be caused by the large number of IT employees with expertise concerning older IT systems and applications that are scheduled to retire in the near future.*

The Administration's proposal addresses many of the governance decisions, but also raises several important questions, chief among them:

**A return to DOIT?** Based on recent history, most notably the ill-fated Oracle licensing contract overseen by DOIT, the Legislature should approach any proposal to realign resources back towards a DOIT arrangement with caution. There should be obvious shortcomings with the current project oversight process or compelling reasons to swing the pendulum so far backwards. As the LAO has noted, evidence of underperformance by OTROS and the benefits of shifting OTROS out of DOF has not been abundant.

**Statute never given a chance?** The fiscal analysis of SB 834, provided by the Assembly Appropriations Committee, characterizes the expense for the OCIO as "currently funded" and "absorbable." The budget change proposal (BCP) greatly exceeds the expectations of SB 834, requesting funding of \$7.8 million and nearly 50 positions. Furthermore, the proposed trailer bill language would eliminate the provisions of SB 834 before implementation even occurs.

**Why is IT governance no longer a policy committee issue?** The Department of Finance has proposed trailer bill legislation to augment the OCIO's authority to be more consistent with the proposed funding level. Nonetheless, the Subcommittee should carefully consider why this level of proposed authority should not again receive the full scrutiny of the policy committees.

**What is the best reorganization?** The Subcommittee may also wish to consider OCIO staffing and functional alternatives, including those suggested by the Legislative Analyst's Office (keeping OTROS in place, shifting technology security functions to the OCIO), as well as other alternatives like consolidating the Department of General Services' (DGS) IT procurement function into the OCIO.

The lack of clear authority between DOIT and DGS with regard to procurement was one of criticisms leveled by the Bureau of State Audits. Statute authorizing DOIT was not definitive in roles and DOIT generally deferred to DGS. When the Oracle debacle unfolded, DOIT's role in procurement was characterized by the BSA as "minor."

While DGS may be the long-established manager of state procurement activity, the specialized nature of IT procurements suggests that shifting that portion of DGS's procurement activities may be in the state's best interest. The benefits of a OCIO-controlled procurement process would include more direct accountability for results, a direct link between the strategic plan and the timing of procurements, and better access by departments and vendors alike to procurement decision makers.

This sort of consolidated procurement approach is not unprecedented. The New York State Office of Technology and the Virginia Information Technologies Agency consolidated their procurement activities into a central IT office.

**How to fund?** Funding for the proposed OCIO is from the Department of Technology Services Revolving Fund, a client-funded department. Since this proposal serves the state as a whole—not only the DTS client departments—the proposed funding mechanism appears inappropriate. If supported, the Department of Finance should identify another funding source, consistent with the beneficiaries of OCIO services.

**Where to focus?** At the February 22, 2007, “Overview of the State’s Information Technology Management Process” hearing, the Chief Information Officer was asked by the Chair of this committee to report back at this hearing with a “blueprint” to address the challenges associated with managing the development and implementation of new IT systems that will replace at least 14 disparate and antiquated IT systems currently used by the California Department of Corrections and Rehabilitation (CDCR). These challenges include facilities with only basic telephone wiring that cannot support deployment of advanced information technology without physical infrastructure upgrades. The blueprint sought should be a detailed, prescriptive, and prioritized document, aimed at bringing online only the truly necessary systems for CDCR in a timely manner.

**Staff Recommendation:** Request the Chief Information Officer/Administration respond to the LAO and staff analysis, including responses to the following issues:

1. Preliminary findings in developing an IT blueprint for CDCR, as previously requested.
2. The merits of consolidating DGS’ IT procurement function into the OCIO.
3. Considerations for the Legislature in deciding whether to reject this proposal altogether and refer to the policy committees.
4. The appropriate funding mechanism for the OCIO.

## 0650 Office of Planning and Research

The Office of Planning and Research (OPR) assists the Administration with legislative analysis and planning, policy research, and liaison with local governments. The OPR also oversees programs for small business advocacy, rural policy, and environmental justice. In addition, the office has responsibilities pertaining to state planning, California Environmental Quality Act assistance, environmental and federal project review procedures, and overseeing the California Service Corps.

The Governor's budget funds 91.3 positions (including 19 new positions) and expenditures as follows:

<b>Summary of Expenditures</b>				
(dollars in thousands)	2006-07	2007-08	\$ Change	% Change
<b>Fund Source</b>				
General Fund	\$10,263	\$10,436	\$173	1.7%
Federal Trust Fund	38,312	38,405	93	0.2
Reimbursements	2,217	3408	1,191	53.7
Total	\$50,792	\$52,249	\$1,457	2.9%

### **VOTE-ONLY ISSUES**

**1. Tribal Consultations and Guidelines.** The OPR requests \$195,000 General Fund to continue training and outreach to tribal governments and updating the state's *General Plan Guidelines*, utilized by communities throughout California when updating their general plans. The request includes a one-year extension of a Senior Planner position for tribal support, established for two years limited-term in the 2005 Budget Act. Pursuant to Chapter 905, Statutes of 2004 (SB 18), the OPR was directed to develop consultation guidelines for local governments and tribes in order to encourage protection of Native American lands.

**2. Homeland Security Grant Program.** The OPR's California Service Corps requests \$3 million in federal fund reimbursements from the State Homeland Security Grant Program in order to enhance local communities' emergency response through training, outreach, and other volunteer service opportunities. The Administration has designated the California Service Corps to administer the federal Citizen Corps Program and coordinate volunteers in the event of an emergency.

**3. California Joint Land Use Studies.** The Administration requests one time federal fund spending authority of up to \$582,000 for the expenditure of remaining funds for land use compatibility planning between military installations and local jurisdictions. The Department of Defense recently augmented their original appropriation by \$86,000, which will be paired with \$496,000 in remaining federal funds for this purpose.

**VOTE on Vote-Only Issues 1, 2, and 3:**



**DISCUSSION ISSUE:**

**Office of the Small Business Advocate.** The OPR requests \$234,000 General Fund and two positions to fund the Office of the California Small Business Advocate (CSBA). Prior to the disestablishment of the Office of Trade and Commerce in 2002, the Office of the CSBA was transferred to the OPR. The OPR has performed the duties of the CSBA over the last five years by periodically establishing a CSBA and funding it from existing resources. However, the OPR believes that 2006 legislation adding new responsibilities for the CSBA to study the effects of state regulation on small businesses and to develop an emergency preparedness handbook necessitates ongoing funding.

**Staff Comment:** The two pieces of recent legislation cited to justify this proposal, AB 2330 (Arambula) and AB 3058 (Committee on Jobs, Economic Development, and the Economy), were accompanied by appropriations of \$85,000 and \$100,000, respectively. The department has determined that these appropriations are sufficient for the associated workload.

A second rationale for these two positions is a stated intent to expand the activities of the Office of the Small Business Advocate. However, given the CSBA's demonstrated capacity to redirect positions to accomplish the mission and the lack of statutory direction for new activities (coupled with a severe General Fund shortfall this year), a more better approach may be to defer to the policy committees to evaluate the need to augment the mission and activities of the CSBA.

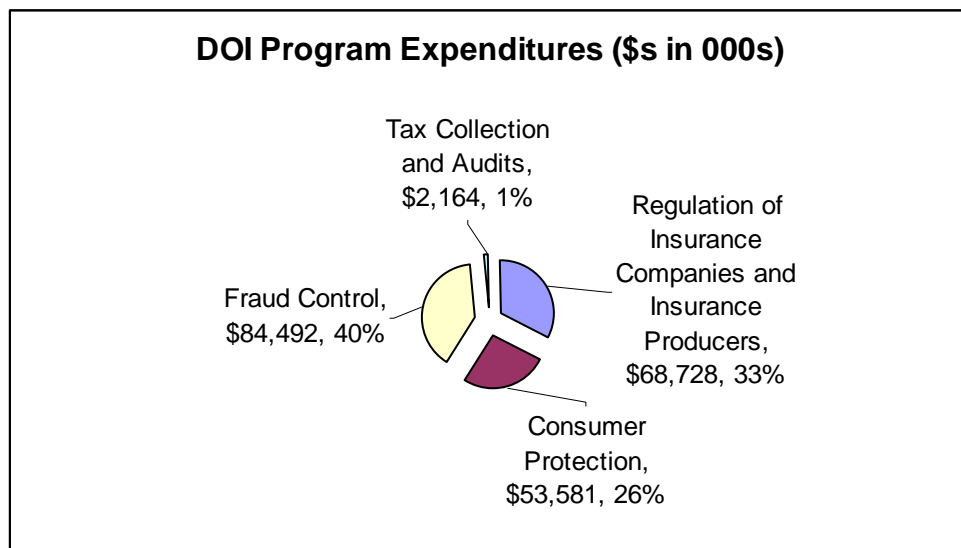
**Staff Recommendation:** REJECT the BCP, a savings of \$234,000 General Fund.

**VOTE:**

## 0845 Department of Insurance

Under the leadership of the state's Insurance Commissioner, the Department of Insurance regulates the largest insurance market in the United States with over \$118 billion in direct premiums written in the state. The Department conducts examinations and investigations of insurance companies and producers to ensure that operations are consistent with the requirements of the Insurance Code and those insurance companies are financially able to meet their obligations to policyholders and claimants. The Department also investigates complaints and responds to consumer inquiries; administers the conservation and liquidation of insolvent and delinquent insurance companies; reviews and approves insurance rates; and combats insurance fraud.

The Governor's budget funds 1,263.4 positions (no new positions) and expenditures of \$209.0 million, programmed as follows:



### ***VOTE-ONLY ISSUES***

**1. Automobile Insurance Fraud Program Spending Authority Increase.** The Department of Insurance requests \$1.6 million (Insurance Fund) to distribute assessments collected from insurers to district attorneys to investigate and prosecute fraudulent automobile insurance claims. The department's Automobile Insurance Fraud Program is funded by an annual fee of one dollar per insured vehicle, paid by California insurance companies.

**2. Life and Annuity Consumer Protection Fund Spending Authority Increase.** The Department of Insurance requests a one-time spending authority increase of \$750,000 (Insurance Fund) to assist district attorneys in combating life insurance and annuity financial abuse. Based on applications for these funds, they will be distributed to prosecute financial abuse crimes and educate consumers on financial abuse related to life insurance and annuity products.

**3. Urban Grant Program: Spending Authority Increase.** The Department of Insurance requests a permanent funding increase of \$1.4 million (Insurance Fund) to support the Organized Automobile Fraud Activity Interdiction Program (Urban Grant Program). The funds would be made available to local fraud interdiction task forces who have identified a growing number of fraud cases of increasing sophistication.

**4. Enterprise Information Portal.** The Department of Insurance requests authority to redirect two positions and associated funding from the Regulation of Insurance Companies and Producers Program to the Administration Program to assist in the implementation of the Enterprise Information Portal. The Enterprise Information Portal, a computer system designed to aggregate multiple insurance data sources into a usable format, was established in 2005-06 with a \$2 million initial appropriation.

**VOTE on Vote-Only Issues 1, 2, 3, and 4:**

**DISCUSSION ISSUE:**

**1. Public Participation Program (“Intervenors”).**

The Department of Insurance proposes an increase of \$780,000 (Insurance Fund) ongoing for increased expenses associated with “intervenors,” who act on behalf of consumers to participate in rate regulation proceedings and resolve compensation claims conflicts with insurers. Reimbursement of “reasonable costs and fees” for that advocacy may be sought by submitting a request to the Office of the Public Advisor within a specified time frame.

**Staff Comment:** The intervenor program has encountered budgetary shortfalls during the last two years, requiring the department to submit requests for mid-year appropriations (deficiencies). The dramatically higher program costs in 2006 were directly attributable to the territorial rating issue (eliminating the use of zip codes as an auto rating factor), an issue that has now largely been resolved.

While recent intervenor activity has been unpredictable, the department predicts that the requested augmentation will adequately fund all requests that can reasonably be expected. (The department was also granted expanded authority to transfer funds internally for intervenor activities.) Nevertheless, the uncertainty over appropriate funding of the program suggests the Legislature should revisit the intervenor issue next year.

Additionally, the program has faced scrutiny from some sectors of the insurance industry who object to the difficulty in obtaining information on the identity and activities of intervenors. The department has offered to provide better access to this information, as described in the following suggested budget bill language for Item 0845-001-0217:

*3. The Department shall include in the annual “Proposition 103 Reoccupant Fee Assessment” report funds paid pursuant to Insurance Code Section 1861.10(b), pertaining to reasonable advocacy and witness fees and expenses for intervenors. The report shall be posted on the department’s web site and include the following information with respect to each person who initiates or intervenes in ratemaking proceedings:*

- (a) The identity of the person and the application for compensation.*
- (b) The specific ratemaking proceedings in which the person participated.*
- (c) The fees collected by the person for each ratemaking proceeding in which he or she participated.*

**Staff Recommendation:** APPROVE the BCP for one year only and ADOPT the budget bill language.

**VOTE:**

## **2. Upgrade of Legal Branch Positions**

The Department of Insurance requests \$164,000 (Insurance Fund) to upgrade two Staff Counsel III positions to Staff Counsel IV positions and upgrade 23 Staff Counsel II positions to Staff Counsel III positions. The department believes that expanding scope of practice and retention issues necessitate these salary increases.

### **Staff Comment:**

The Department of Insurance submitted a request on January 19, 2007, to transfer unused salaries from two programs to cover \$2.3 million in unanticipated legal expenses. Specifically, \$550,000 was transferred from the Fraud Control Program and \$1.7 million from the Consumer Protection Program. The department characterized these transfers as all one-time savings. However, based on actual position vacancy data (showing a doubling of Consumer Protection Program vacancies and tripling of Fraud Control vacancies over the last six years), as well as other indicators, it appears that excess funding for salaries is a growing problem. Consequently, the Subcommittee should limit new salary or other expenditures in these programs.

The "Upgrade of Legal Branch Positions" BCP includes \$58,000 from the Consumer Protection Program.

**Staff Recommendation:** REDUCE the "Upgrade of Legal Branch Positions" BCP by \$58,000, to reflect reduced salary expenditures in the Consumer Protection Program.

**VOTE:**

## **1955 Department of Technology Services**

The Department of Technology Services (DTS) was created in 2005 by the reorganization and consolidation of the Stephen P. Teale Data Center (Teale), the Health and Human Services Data Center (HHSDC), and certain telecommunications functions of the Department of General Services. The DTS serves the common technology needs of state agencies and other public entities. The DTS maintains accountability to customers for providing secure services that are responsive to their needs and represent best value to the state. Funding for DTS is provided by contracts with other state departments.

The Governor's budget funds 767 positions (including 3 new positions) and expenditures of \$259.8 million.

### ***VOTE-ONLY ISSUES***

**1. Prior Year Project Expenditure Adjustments.** The Administration requests to reduce the DTS' baseline budget to align appropriations with the ongoing costs of related projects. The proposed reductions decrease expenditures by \$9.3 million in the budget year. The DTS is a fee-for-service organization and operates solely upon reimbursements. This BCP requests the funding authority needed to meet customer's needs and requirements.

**2. Mainframe Central Processing Units Capacity.** The Administration requests \$4.5 million (DTS Revolving Fund) to purchase mainframe processing capacity in order to meet projected workload increases and upgrade software. The DTS anticipates a need for 912 additional Millions of Instructions Per Second (MIPS) for the seven CPUs in the budget year. This capacity growth need is primarily driven by population growth and the corresponding impact on departments' IT needs.

**3. Enterprise Data Storage.** The Administration requests \$5.3 million in 2007-08 (DTS Revolving Fund) to purchase and upgrade existing data storage capacity and safeguard customer data in order to meet anticipated growth needs of DTS' more than 450 customers. Specific needs have been identified in the mainframe storage capacity, midrange storage capacity, tape storage capacity, and connectivity infrastructure.

**4. Midrange Computing Capacity Augmentation (Server Upgrades).** The Administration requests \$11.1 million (DTS Revolving Fund) to allow for the replacement of 34 UNIX and 180 Windows servers and purchase capacity to support 33 new UNIX servers and 130 new Windows servers. The DTS has identified an anticipated customer-driven workload and seeks to accommodate more than 450 customer entities with this more modern capacity.

**5. Network Workload Growth.** The Administration requests a \$3.9 million increase in DTS Revolving Fund spending authority to replace phased-out hardware and accommodate network growth. The funding supports growth in the Wide Area Network, workload growth in supporting the California Child Support Automation System, and replacement of Local Area Network switches where vendor support is ending.

## ***DISCUSSION ISSUE***

**Augmentation to Support Implementation of the Financial Information System for California (FISCal).** The Department of Technology Services budget includes a request for \$352,000 (special funds) and three positions to support the implementation of the Department of Finance's Financial Information System for California (FISCal), a nine-year IT project with an overall estimated price tag of more than \$1.3 billion. The new system is an enterprise-wide approach to addressing eventual obsolescence in 11 key fiscal management areas, including budgeting, accounting, procurement, cash management, financial management, financial reporting, cost accounting, asset management, project accounting, grant management, and human resources management.

**Staff Comment:** The Department of Finance requests that the positions be budgeted at the top step because of the anticipated experience level needed for the DTS. However, this request is inconsistent with longstanding practice and DOF budgeting procedures. If a top step is needed for these new positions, DTS can (as many departments do) redirect salaries from other sources to pay for the exception. Alternatively, the Department of Finance could request a higher classification for the positions.

**Staff Recommendation:** HOLD OPEN, pending the outcome of hearings on the FISCal proposal.

## 8620 Fair Political Practices Commission

The Fair Political Practices Commission has primary responsibility for the impartial administration, implementation, and enforcement of the Political Reform Act of 1974. The objectives of the Political Reform Act are to ensure that election campaign expenditure data is fully and accurately disclosed so that the voters may be fully informed, inhibit improper financial practices, and regulate the activities of lobbyists and disclose their finances to prevent any improper influencing of public officials.

The Governor's budget funds 77 positions (including 5 new positions) and expenditures as follows:

<b>Summary of Expenditures</b> (dollars in thousands)				
	2006-07	2007-08	\$ Change	% Change
<b>Fund Source</b>				
General Fund	\$7,441	\$8,048	\$607	8.2%
Total	\$7,441	\$8,048	\$607	8.2%

### ***DISCUSSION ISSUE***

**Administrative Workload Growth.** The Fair Political Practices Commission (FPPC) requests five positions and \$604,000 in the budget year and \$583,000 ongoing to respond to administrative workload growth. Four of the requested positions would assist with budget, personnel, and information technology workload, and one would address conflict of interest review issues in the Technical Assistance Division. The request also includes \$20,000 to upgrade the Commission's telephone hardware and software.

**Staff Comment:** The department explained an unusually high allotment for operating expense by clarifying an unmet operating expense (OE) need totaling \$120,000 in the budget year. In the following year (2008-09), a technical error was also identified, requiring a funding reduction of \$32,000 that fiscal year and ongoing.

**Staff Recommendation:** APPROVE the BCP as amended; \$604,000 in the budget year and \$572,000 ongoing.

**VOTE:**

## **8885 Commission on State Mandates**

The Commission on State Mandates is a quasi-judicial body that makes the initial determination of state mandated costs. The Commission is tasked to fairly and impartially determine if local agencies and school districts are entitled to reimbursement for increased costs mandated by the state.

The Governor's budget funds 14 positions (with no new positions). No budget change proposals were submitted by the department.

### **DISCUSSION ISSUES**

#### **1. The Administration's Proposal for 2007-08 Mandate Funding (A through D).**

##### **A. LOCAL GOVERNMENT MANDATE SUSPENSIONS.**

The same twenty-eight mandates that are suspended this year are again recommended for suspension in the budget year.

##### **B. STATUTORY REPAYMENT OF PAST DUE STATE MANDATE CLAIMS.**

The Administration proposes no payments for past due state mandate claims to local governments. In accordance with Proposition 1A (2004), the state must repay local agencies within 15 years for all of the pre-2004 mandates that have not been reimbursed. The approximate total of past due local government mandates is nearly \$1.0 billion. However, the current year budget included two years' worth of these payments, enabling the state to forego a year's worth of payments in the budget.

##### **C. LOCAL GOVERNMENT STATE MANDATES PAYMENTS.**

The budget includes no funding for General Fund mandate payments. The Administration has adopted a new perspective that these costs are due and payable not at the time estimated claims are received (standard practice to date), but rather the year after the local agency submits the bill. This perspective has been reviewed by Legislative Counsel and found not to be unconstitutional. (However, a change to Government Code is necessary to effect this change—see LAO comments.) A budget savings of over \$200 million results in this one time cost shift to 2008-09.

#### **LAO Comment: *Inconsistency Between Budget Funding and Government Code***

*We recommend the administration either propose funding to pay local governments' mandate bills in 2007-08 (about \$150 million) or propose legislation to modify the Government Code to reflect its delayed payment schedule.*

*The 2007-08 budget includes no funding to pay noneducation, non-AB 3632 mandate claims. The administration explains that the state can realize a one-time savings in 2007-08 because: (1) funding in the 2006-07 budget provides sufficient resources to pay all mandate bills submitted in the current year and to make the 2007-08 backlog payment and (2) Proposition 1A shifted the mandate payment due date and now permits the state to pay mandate bills one year after the fiscal year in which local governments submit mandate bills.*



*Our review indicates that the administration's first assertion may be accurate. While the State Controller's Office (SCO) is still paying and auditing mandate bills, there appears to be sufficient resources in the 2006-07 budget to pay these mandate bills and make the 2007-08 backlog payment. The SCO advises us that it will have updated estimates of mandate costs in the spring and will provide this information to the Legislature at that time.*

*With regard to the administration's second assertion (that Proposition 1A shifted the payment date for mandates), we find that the administration's proposed payment schedule is inconsistent with the longstanding payment schedule in the Government Code. Specifically, the Government Code (which was not modified by Proposition 1A) permits local governments to file for mandate reimbursements in the year in which the local government carries out the mandated activity. It further directs SCO to pay these claims promptly, imposing interest penalties on the state if SCO does not pay the claim within 60 days. **Thus, while Proposition 1A permits the state to pay mandate bills one year after the local government submits the bills, the Government Code specifies an earlier payment schedule.***

*In our view, paying mandate bills in the year in which the state imposes a mandated responsibility makes good policy sense. Otherwise, the state may be less likely to consider the fiscal consequences of its actions when making decisions whether to maintain, repeal, or suspend a mandate. For 2007-08, we estimate the cost of funding all currently active (that is, not suspended) mandates would be over \$200 million. (This estimate excludes education mandates and AB 3632.)*

*Accordingly, we recommend the administration propose funding for the mandates it proposes be active in 2007-08. Alternatively, if the administration wishes to postpone these mandate payment obligations, using the flexibility provided under Proposition 1A, we recommend the administration propose changes to the Government Code to be consistent with its delayed payment schedule.*

#### **D. NEWLY IDENTIFIED MANDATES.**

The Legislative Analyst's Office, pursuant to Chapter 1123, Statutes of 2002 (AB 3000, Committee on Budget), has provided information on three newly identified state mandates. The Department of Finance has indicated that they will pay these costs by proposing budget bill language to allow these mandates to be paid out of residual current year funds (a reappropriation).

#### **LAO Comment:**

*The three mandates shown in Figure 1 were reported to the Legislature after September 2006. Perhaps due to this late date, the budget bill does not specify the administration's proposals regarding them. That is, the budget bill does not identify funding for them, suspend their requirements, or indicate that their costs are to be deferred. We recommend that, prior to budget hearings, the Department of Finance (DOF) notify the budget subcommittees whether it proposes to fund, defer, repeal, or take other actions concerning these three mandates.*

Figure 1 Newly Identified State Mandates		
Mandate	Administration's Statewide Budget Proposal	Cost Estimate
False Reports of Police Misconduct	Fund	\$126,024
Crime Victim's Domestic Violence Incident Reports	None specified	918,998
Peace Officer Personnel Records: Unfounded Complaints and Discovery	None specified	1,833,051
Total		\$2,878,073

**Staff Recommendations:**

- a. Request the LAO explain their perspective on the Administration's proposals for budget year funding of General Fund mandates and the three newly identified mandates.
- b. Request the Department of Finance respond to LAO's analysis, specifically the assertion that Government Code amendments are needed to effect the nonpayment of 2007-08 General Fund mandates.
- c. Request Commission on State Mandates and other interested parties respond to the proposals.

**2. Mandate Process Changes.**

The Administration has proposed the elimination of "reasonable reimbursement methodology" (cost formulas that may be used to reimburse local agencies and school districts, under certain conditions) and the creation of an alternative mandate claim filing process to potentially reduce delays in mandate determinations and reduce costs (see Appendix B).

The new "joint determination" process would encourage local agencies and the Department of Finance to determine together, within 12 months of the enactment of a new statute, whether a new mandate has been established and the cost for that mandate. Costs, once agreed upon by both parties, would be submitted for Legislative review in the budget bill. If either the Department of Finance or local agencies disagreed with the joint determination, they may still opt to follow the existing mandate determination process.

**LAO Comment: SUMMARY**

*The California Constitution requires the state to reimburse local governments for certain state mandates. The process for determining the existence of state mandates and providing local government reimbursements, however, has significant shortcomings. "Test claims" filed by local governments (alleging the existence of a mandate) typically take over five years to be resolved by the Commission on State Mandates. During this time, state fiscal liabilities mount*

*and local governments carry out mandates without reimbursement. Local governments devote considerable resources to mandate record keeping, but the State Controller's Office disallows about one-third of local government mandate claims because they do not comply with the commission's complex guidelines. Local governments often appeal these claim reductions to the commission, causing further delays in the mandate determination process.*

*The administration's proposal to reform this mandate process provides a good starting point for discussion. In this analysis, we review the administration's proposal and offer the Legislature a similar, but more extensive, proposal that includes three significant changes to the mandate process:*

- (1) Simplify the process for local governments to file reimbursement claims by placing greater emphasis on unit cost methodologies.*
- (2) Allow mandate payment methodologies to be developed through negotiations between local government and the Department of Finance.*
- (3) Establish an alternate process to provide early settlement of mandate disputes and bypass the commission entirely.*

*The California Constitution generally requires the state to reimburse local governments when it mandates that they provide a new program or higher level of service. State law assigns the Commission on State Mandates the authority to: (1) resolve disputes over the existence of state mandates and (2) develop methodologies (called parameters and guidelines, "Ps&Gs") that local governments follow to calculate the amount they may claim as reimbursements.*

#### **CONCERNS WITH THE ADMINISTRATION'S PROPOSAL**

*While the administration's general approach is on target, its mandate reform proposal would benefit from legislative review and modification because it:*

- ***Diminishes the Legislature's Information and Policy Options Regarding Mandates.*** *Under current law, the Legislature receives a legal decision and proposed methodology regarding each mandate and may direct the commission to reconsider these documents if it believes the commission did not consider important information. The Legislature also may modify the reimbursement methodology and/or reduce funding for a mandate, as long as its actions do not interfere with local government's constitutional right to reimbursement. Under the administration's proposal, in contrast, the Legislature's role is reduced to reviewing the agreement negotiated between the administration and local governments—and accepting or rejecting it.*
- ***Does Not Acknowledge the Legal Alternatives Available to Local Governments That Disagree With a Proposed Settlement.*** *The administration's proposal appears to assume that a mandate settlement, negotiated between DOF and some local governments, would be the sole form of mandate reimbursement available to local governments. Given that the California Constitution entitles local governments to reimbursement of their mandated costs, we think it is likely that the courts*

would allow local governments that are not satisfied with the funding provided under this negotiated settlement to file court actions for additional reimbursement.

- **Expedites and Simplifies Few Mandates.** The administration indicates that it wishes to focus its efforts on those claims that are subject to the annual mandate payment requirement of Proposition 1A, approved by the voters in November 2004. This measure provided exceptions for mandates affecting educational agencies and pertaining to employee rights. Such an approach greatly reduces the potential effectiveness of the administration's proposal. Specifically, we note that 55 of the 86 mandate test claims pending before the commission are from educational agencies and 5 others relate to employee rights, both exempt from Proposition 1A's annual payment requirement. Thus, less than a third of these 86 test claims potentially could be expedited under the administration's proposal.

To address these concerns, we outline below a three-part mandate reform package that is similar to the administration's proposal, but it: (1) maintains the Legislature's policy control regarding mandates, (2) acknowledges the rights of local governments that disagree with the negotiated settlement, and (3) strives to expedite and simplify many mandate claims.

#### LAO THREE PART MANDATE REFORM PACKAGE

Building on the Governor's proposal, we offer a reform package to expedite and simplify the mandate determination process without altering local rights or state responsibilities under the Constitution's mandate reimbursement requirement. Given the variation in local government mandates, no single change would improve the process for all claims. Accordingly, our reform package includes three elements that we recommend the Legislature enact as optional alternatives to the existing process:

- **Amend the Existing Reasonable Reimbursement Methodology Statute.** Our proposal clarifies the type of easy-to-administer reimbursement methodology that the Legislature envisioned when it enacted this statute. While we would encourage the commission to use this approach to the greatest extent possible, the commission could adopt Ps&Gs using the existing approach (documented actual costs) if it were appropriate for a specific claim.
- **Modify the Existing Mandate Process to Allow Reimbursement Methodologies and Estimates of Statewide Costs to Be Developed Through State-local Negotiations, With Minimal Commission Oversight.** This option would replace the existing adversarial process with a single negotiated step, expediting the existing process by at least a year. Because the negotiated Ps&Gs would be based on the reasonable reimbursement methodology approach described above, this negotiated process also simplifies the claiming process.
- **Create an Alternative Dispute Resolution Process That Bypasses the Commission Process Entirely.** This alternative would resolve mandate

*claims in about a year, thus offering the greatest potential for expediting the mandate process. While this alternative probably would be used for only a small number of claims (where there is a wide agreement between local governments and the administration), any reduction in the number of claims would improve the commission's processing time for other claims.*

(The LAO's proposed legislation to effect mandate process changes is shown in Appendix C. This language has also been introduced as AB 1576 (Silva)).

**Staff Recommendation:**

- a. Request the Administration and Legislative Analyst's Office explain their mandate process reform proposals and respond to the other, identifying areas of compromise and future discussion.
- b. Request the State Controller's Office, Commission on State Mandates, and other interested parties respond to the alternatives and suggest avenues of exploration.

## 8940 Department of the Military

The Military Department is responsible for the command, leadership and management of the California Army and Air National Guard and five other related programs. The purpose of the California National Guard is to provide military service supporting this state and the nation. The three missions of the California National Guard are to: (1) supply mission ready forces to the federal government as directed by the President; (2) provide emergency public safety support to civil authorities as directed by the Governor; and (3) support local communities as directed by proper authorities. The Military Department is organized in accordance with federal Departments of the Army and Air Force staffing patterns. In addition to the funding that flows through the State Treasury, the Military Department also receives Federal Funding directly from the Department of Defense.

The Governor's budget funds 780 positions (including 95 new positions) and expenditures as follows:

<b>Summary of Expenditures</b> (dollars in thousands)	2006-07	2007-08	\$ Change	% Change
<b>Fund Source</b>				
General Fund	\$42,330	\$44,829	\$2,499	5.9%
Armory Discretionary Improvement Account	146	150	4	2.7
Armory Fund	1,425	0	-1,425	-100.0
Federal Trust Fund	68,544	70,548	2,004	2.9
Reimbursements	15,286	15,610	324	2.1
California Military Family Relief Fund	250	250	0	0.0
<b>Total</b>	<b>\$127,981</b>	<b>\$131,387</b>	<b>\$3,406</b>	<b>2.7%</b>

### ***VOTE-ONLY ISSUES***

**1. Homeland Security Training and Exercise Program.** The Administration requests \$5.7 million ongoing (reimbursements) and 12 five-year limited-term positions to expend funds received from the Office of Homeland Security for staffing support and operational expenses. (The Office of Homeland Security received these funds from the Department of Homeland Security.) These positions would support the Office of Homeland Security's statewide anti-terrorism program and other training.

**2. Federal Reimbursements for Force Protection.** The Administration seeks to expend \$3.5 million (Federal Trust Fund) and establish 47 three-year limited term positions to provide security for California National Guard installations and Army airfields. The Federal government has agreed to provide security staffing at eight selected California National Guard stations that are considered "mission essential."

**3. State Military Reserve Uniform and Travel Funds.** Pursuant to Chapter 597, Statutes of 2006 (SB 1244, Soto), the Administration requests \$69,000 General Fund in 2007-08 and \$75,000 General Fund annually thereafter for a \$125 uniform and travel allowance for State Military Reserve members. Currently, State Military Reserve members receive no travel or uniform allowance for their weekend service training personnel.

**4. Fresno Air National Guard Base Maintenance and Staffing.** The Administration requests \$428,000 (\$86,000 General Fund) and six maintenance positions to provide maintenance services to the Fresno National Guard Base's air defense mission. The department reports that the increased operating tempo at the based, coupled with facilities growth, has made the establishment of these positions a necessity.

**5. Stationary Engineer Positions.** The Administration seeks to establish two stationary engineer positions at a cost of \$292,000 (\$166,000 General Fund) to assist in preventive maintenance, perform repairs, and evaluate contractor work at California National Guard facilities. The department is not currently authorized for the Stationary Engineer Positions sought for this specialized type of work.

**6. Comptroller and Personal Services Staffing Augmentation.** The Administration requests to augment the California National Guard budget by \$82,000 General Fund and one position and contract services to coordinate databases, reports, and personal services processes with the State Personnel Board. The contracted services would lead to recommendations regarding whether to replace or modify the Emergency State Active Duty payroll database.

**7. Helicopter Crewmember Training.** The Administration seeks \$138,000 General Fund for helicopter crewmember training to support the Military Support to Civil Authorities during fires and floods. California National Guard personnel have been called upon for firefighting training and water rescues that require special training and equipment.

**8. Capital Outlay: Barstow Kitchen and Latrine Renovations.** The Administration requests \$375,000 (\$169,000 General Fund) to renovate and enlarge the kitchen and latrine area at the Barstow Readiness Center. The current kitchen facilities do not meet state requirements and cannot be used for food preparation.

**VOTE on Vote-Only Issues 1 through 8:**

### ***DISCUSSION ISSUES***

**1. Informational Issue: Update on the June 2006 State Auditor's Report: *Military Department: It Has Had Problems With Inadequate Personnel Management and Improper Organizational Structure and Has Not Met Recruiting and Facility Maintenance Requirements.***

At the request of the Joint Legislative Audit Committee, in 2006 the Bureau of State Audits conducted an extensive audit of the Military Department, looking specifically at

resource management and recruitment and retention practices. The audit identified a number of deficiencies in both areas:

- *(The department) has not effectively reviewed its state active duty positions, and as a result may be paying more for some positions than if they were converted to state civil service or federal position classifications.*
- *It has convened a panel to review the propriety of its 210 state active duty positions and estimates it will take three to five years to implement the panel's recommendations.*
- *It did not follow its regulations when it temporarily appointed many state active duty members to positions that do not appear to be temporary, failed to advertise some vacant positions as required, and inappropriately granted an indefinite appointment to one state active duty member after he reached the mandatory retirement age.*
- *It is deficient in its management of federal employees by using them in positions and for duties that are not federally authorized.*
- *State active duty members who become whistleblowers do not have access to an independent authority to resolve complaints of alleged retaliation.*
- *Although the department's strategic planning process was interrupted by the events following September 11, 2001, and ultimately abandoned by the former adjutant general, the department has recently revived the process.*
- *In establishing new headquarters' divisions and an intelligence unit, the former adjutant general failed to obtain state approval.*
- *The department used federal troop commands and counterdrug program funds for unauthorized purposes when it formed a field command for operations to support civil authorities and established additional weapons of mass destruction response teams.*
- *The department was unable to demonstrate that it ensured all misused counterdrug funds were reimbursed from other federal sources.*
- *In recent years, the Army National Guard and Air National Guard did not meet their respective goals for force strength.*
- *The department does not maintain adequate procedures to demonstrate it accurately reports training attendance or monitors and addresses Guard members with excessive absences.*
- *The State Military Reserve has not met its force strength goals in recent years; and the department has not identified the role for the State Military Reserve, allowing it to identify its force strength needs.*
- *Ninety-five of the department's 109 armories are in need of repair or improvement, contributing to a \$32 million backlog. The department's allocations of state and federal funding, including a relatively small amount of money from the Armory Fund, have not been adequate to maintain the armories.*

The Military Department has commenced a number of activities to address identified deficiencies. These activities include:

- Utilizing a State Active Duty review panel to validate the status of existing State Active Duty (SAD) personnel and evaluate practices for assigning those personnel.
- Reconciling funding for some federally-funded positions.
- Improving documentation of Soldier Readiness Processing
- Strengthening the department's strategic planning process and disseminating the plan across the command.



- Resolving reimbursement issues related to the misuse of federal counterdrug funds.
- Initiating new recruitment measures to better meet force strength goals.
- Improving attendance recording at drills and dealing with excessive absences.
- Pursuing a more balance approach towards repairing armories and seeking a baseline budget appropriation from the Legislature for that purpose.

**Staff Recommendation:**

- a. Request the Bureau of State Audits brief their findings from the audit and suggest areas where the Subcommittee could effect positive changes in the Military Department's budget.
- b. Request the Military Department update the Subcommittee on actions taken to fix problems identified in the BSA audit.

**2. Military Family Relief Fund**

The Military Family Relief Fund provides financial aid grants to eligible members of the California National Guard who are California residents and have been called to active duty, under specified conditions. Through a "check-off" on their tax forms, taxpayers may allocate funds for the California Military Family Relief Fund.

The current military family relief tax check-off is effective through 2007. The tax check-off did not meet the minimum annual contribution threshold (\$250,000) in 2006 and, pursuant to regulation, the final Military Family Relief Fund contribution year will be 2007.

**Staff Comment:** The Military Family Relief Fund has been marginally successful since first implemented in July 2005. Forty-four applications have been submitted and ten awards made. A total of \$461,000 remains in the fund. Last year the Subcommittee sought to increase applications by amending the application to eliminate misconceptions about eligibility and requiring that program information be sent directly to the spouses of every deployed service member.

Additionally, AB 2085 (Parra, 2006) was enacted to ease application requirements for the Military Family Relief funds, by reducing the qualifying amount of salary loss due to deployment and the length of servicemember's activation.

According to the department, there are two key obstacles to greater utilization of the Military Family Relief Fund: (1) existing structure of the program and (2) the lack of a cultural acceptance towards receiving this support. Regarding the former, by enacting AB 2085 and winnowing application requirements to 60 days of deployment and a ten percent overall income loss, the Legislature has reduced requirements to a prudent minimum for this program.

The latter obstacle is harder to quantify but anecdotally seems to be the larger hindrance to better utilization of the fund. To address the cultural challenge, the Subcommittee should consider shifting the Military Family Relief funds into an existing—and culturally accepted—fund like the Chaplains Fund. If shifted, it may be prudent to delay the transfer until after the 2007 tax year has concluded.

A secondary component to ensuring this financial benefit reaches the families of deployed servicemembers is to continue a strong emphasis on outreach. The following language from the 2006 Budget Act, amended to reflect the suggested changes to the Military Family Relief Fund, would preserve that commitment:

*Of the amount appropriated in Schedule (3), up to \$20,000 shall be expended for a comprehensive direct communications initiative to reach each California National Guard service member and his or her family. This initiative shall include, but not be limited to, quarterly mailings of eligibility information and applications for the California National Guard Chaplain's Fund funds to service members and families of deployed service members.*

**Staff Recommendations:**

1. Notwithstanding existing statute regarding expenditures from the Military Family Relief Fund, shift the collected funds and those to be collected for the 2007 tax year to the Military Department's Chaplains' Fund, effective January 1, 2008, to be used for purposes consistent with that fund.

2. ADD the budget bill language shown above.

**VOTE:**

**3. Border Control Operations: "Operation Jump Start"**

Last summer the President activated and deployed National Guard troops from several states along the U.S.-Mexico border for illegal immigration interdiction operations. After more than six months in service, a draft drawdown plan has been written by Customs and Border Patrol (CBP) and the National Guard Bureau. The draft plan envisions reducing National Guard forces (along four states) from 6,000 to 3,000 by September 1, 2007, and down to zero by July 1, 2008.

For the California National Guard, the plan involves reducing CNG soldiers from 1,600 to 594 by September 2007, and down to zero by July 2008.

According to the California National Guard, "National Guard support to the Customs and Border Protection is a temporary bridge until law enforcement can increase its own capabilities." With an appropriation from Congress, the CBP has begun a dramatic hiring increase in offices across the United States, not only along the border.

**Staff Recommendation:** Request the department report on the status of operations, the anticipated drawdown schedule, and the CBP's prioritization of filling border assignments to relieve California Guardsmen and restore the state's readiness for catastrophic fires, floods, storms, and other state emergencies.

**4. Education Assistance Program.** The Administration requests \$1.7 million General Fund in 2007-08 and \$3.3 million General Fund in 2008-09 and ongoing to establish a California National Guard Election Assistance Program to provide tuition assistance for Guard members and support recruitment and retention efforts.

**LAO Comment: Tuition Assistance Program Duplicates Purpose of Existing Program**

**Tuition Assistance to Aid Recruiting.** The department requests \$1.7 million from the General Fund in the budget year to establish a Tuition Assistance Program (TAP) to aid in recruitment efforts. Program costs would grow to \$3.3 million annually in subsequent years. The department request is based on the idea that a tuition program of some type is essential to the recruitment activities of the California National Guard and, without such a program, recruiting quotas will go unfilled. The department reports that it needs to recruit 489 members to attain 100 percent of the federally authorized troop strength. Of a total federally authorized troop strength level of 20,698 members, 489 represents a 2.4 percent shortfall.

**Program Already Exists for the Same Purpose.** This same rationale for improved recruitment led to the National Guard Assumption Program for Loans for Education (NG-APLE), created by Chapter 345, Statutes of 2003 (AB 547, Liu). The NG-APLE is administered by the California Student Aid Commission (CSAC), and pays off student loans for qualified students who fulfill specified terms of enlistment in the National Guard. The CSAC may only award the number of NG-APLE warrants authorized in the annual budget act. No warrants were authorized until the 2006-07 Budget Act, which authorized 100 grants. The program is due to sunset at the end of 2006-07.

**NG-APLE Superior to TAP.** There have been concerns about the NG-APLE. For instance, it has taken too long to get off the ground. The CSAC is only now in the process of promulgating regulations for NG-APLE, which are expected to be adopted in April 2007. In addition, there may be too few authorized grants to be of value in overall recruiting. Despite these issues, we believe NG-APLE is superior in design to TAP. First, NG-APLE is easier to administer. As a loan forgiveness program, it only pays benefits once the student has completed his or her military commitment. In contrast, TAP provides payment up front, and thus it would be necessary for the state to try to collect those funds from the student if he or she fails to complete the military commitment. Second, NG-APLE is structured similar to other programs already administered by CSAC. The TAP would create a new program to be administered by the Military Department, which has less experience in administering student financial aid programs. Finally, NG-APLE is established in statute, while TAP would give discretion to the Military Department regarding the allocation of awards.

**No Need to Establish New Program.** For these reasons, we recommend the Legislature reject the TAP proposal. If the Legislature wishes to continue to provide student financial aid as a way to help recruit and retain National Guard members, we would advise renewing the NG-APLE beyond its June 2007 sunset and authorize additional warrants in the budget year to aid in recruitment.

**Staff Comment:** The Administration has submitted education budget trailer bill legislation that would amend the NG-APLE program by extending the operative date from July 1, 2008, to July 1, 2012.

Separate trailer bill legislation to facilitate the tuition assistance program has also been proposed by the Administration (see Appendix D). This proposed legislation mirrors SB 983 (Simitian), which would create the California National Guard Education Assistance Program to promote recruitment and retention of California National Guard personnel. Additionally, it would require the Adjutant General to adopt policies and procedures necessary to implement this program.

The need to approve this request immediately is questionable. According to their response to the BSA audit, the department has met or exceeded its recruiting targets for new recruits and in the federal fiscal year ending September 30, 2006. The report also states, "The department expects to sustain its success in maintaining overall force strength through the newly released recruiting initiative called the Guard Recruiter Assistance Program. Under this program, Army and Air guardsmen are encouraged to recruit for their respective units through a \$2,000 cash payment for each new member they recruit."

Based on the comments above, it appears that approving this BCP without a broader discussion about recruitment and retention would be premature and unnecessarily preempt the policy committees.

**Staff Recommendation:** HOLD OPEN and request the Military Department respond to staff comments. Additionally, the department should: (a) provide the latest recruitment and retention data and (b) explain why this issue should preempt the normal policy process.

## **5. Armory Maintenance and Repair Baseline Increase.**

The Administration seeks to address a maintenance backlog for state armories by establishing a baseline increase of \$4.5 million (\$3 million General Fund, \$1.5 million Federal Trust Fund) for ongoing maintenance and repair budget. These funds would be used for cyclic maintenance and remedial repairs as required. This request follows a one-time augmentation in the same amount for the current year.

**Staff Comment:** An alternative presented in the BCP suggests a moderated repair schedule, at an annual cost of \$1.5 million General Fund and \$1.5 million Federal Trust Fund. According to the department, as long as it is predictable funding, this appropriation would still make significant strides in repairing the state's armories.

Given the state's worsening financial condition, it would be more fiscally prudent at this time to adopt a lower appropriation and possibly reconsider a higher ongoing appropriation at a later date. Federal funds would be unaffected by the lower appropriation: the state will still receive \$1.5 million from the federal government for this purpose.

In the longer term, additional funding for armory maintenance and repairs will become available when the Economic Recovery Bonds are paid off. The Military Department has many properties that are approaching the end of their useful life and would generate significant sums for armory maintenance and repair. However, all revenues from property sales are diverted to paying off those bonds. The Administration's latest repayment plan indicated that the last payment would occur in August 2009.

**Staff Recommendation:** REDUCE the BCP by \$1.5 million General Fund ongoing.

**VOTE:**

**6. New Armory Utilities Costs and Maintenance Cost Increases.**

The Administration requests a baseline increase of \$774,000 (\$442,000 General Fund) and four positions to provide custodial services to four new armories brought online in 2006. Based on the custodial budgets of armories of similar size, the California Military Department estimates operational costs of \$124,000 at each armory.

**Staff Comment:** The department has closed four armories in the last two years. None of these locations were assigned full time custodial staff and no redirectable expenditures were identified by the department. Custodial requirements for these aging armories were met by assigned military personnel and custodians visiting on a biweekly basis.

The four new facilities, like the four that recently closed, will be used mainly on weekends. Consequently, funding for four full time custodians appears excessive. A more fiscally prudent alternative would be to save the General Fund approximately \$200,000 and authorize no positions. The department would retain the capacity to redirect funding for custodial services, as it did with the four recently-closed facilities.

**Staff Recommendation:** REDUCE the BCP by four positions and associated salaries and benefits.

**VOTE:**

**7. Military Funeral Honors Program.**

The Governor's Budget includes \$1.8 million (General Fund) and 23 positions to provide the additional resources necessary to address increased demand for military funeral honors. Twenty-two of the requested state-funded positions would perform military funeral honors throughout the state and one administrative staff person would train personnel, assign missions, submit reports to the Department of Defense, and perform other support tasks.

**Staff Comment:** Requests for military funeral honors have grown steadily since the Department of Defense (DOD) required all organizational entities within the DOD to conduct funeral services in 2001. That year there were 2,345 requests and in 2006 there were 6,754 requests.

DOD Directive 1300.15, which governs military funeral honors, is not a federal mandate. The California National Guard cannot be compelled to perform military funeral honors without the consent of the Governor. Additionally, the Secretary of Defense may waive the obligation to perform military funeral honors, "in order to meet the requirements of war, national emergency, contingency operation, or other military requirements as described..."

Federal funding is available for conducting military funeral honors. Section 4.8.2 of the directive specifies that ready reserve personnel may volunteer for this activity and:

*Pay allowances, travel, and transportation expense reimbursements, when appropriate, shall be paid from funds appropriated to the Department of Defense and **shall** be paid in accordance with the applicable provisions of 37 U.S.C. (reference (c)).*

The personnel who may perform military honors do not have to be federally recognized, uniformed personnel, but may come from a very broad cross section of uniformed military personnel. According to the DOD Directive,

*“Authorized providers may include, but are not limited to, Veterans Service Organizations, members of the Reserve Officers Training Corps, and other appropriate individuals and organizations which support the rendering of Military Funeral Honors.”*

One such “Other appropriate individuals” for this activity would include the State Military Reserve. The department’s conclusion (apparently erroneously) that these personnel may not be used for military funeral honors suggests that the proposed solution did not consider all reasonable alternatives.

Finally, the department’s 60-day response letter to the State Auditor’s report (referenced earlier) acknowledges that the department has 13 Active-Guard Reserve personnel with the capacity to perform up to 800 funerals a month. According to the information provided, no more than 699 honors have ever been provided per month. Evidently, the current staffing level (and fund source) is adequate.

**Staff Recommendation:** REJECT the BCP, a savings of \$1.8 million General Fund.

**VOTE:**

**8. Service Member Care.** The Administration requests \$165,000 General Fund ongoing and one psychologist position to establish a full time mental health care capability. The proposed position will provide emergency crisis counseling, referral and personal support, combat stress evaluations, and other mental health support. Unlike California law enforcement agencies, The California Military Department has no full-time support system in place for service members and the federal government offers no long-term mental health benefits for National Guard members.

**Staff Comment:** Comparable mental health staff to front line staff ratios in the law enforcement community and in the U.S. military are much lower than this request seeks to provide (approximately 1:20,000). The approximately 20,000 National Guard personnel are scattered around the state making one psychologist’s task seemingly impossible. Consequently, it is not clear that, as proposed, this staffing level would have an appreciable impact on mental health services for Guard members.

**Staff Recommendation:** HOLD OPEN and request the department report on the staff level required to provide mental health services to all National Guard personnel around the state.

## DISCUSSION ITEMS—CONTROL SECTIONS 4.04 AND 4.05

### 4.04 Unallocated “Price” Reduction

On January 19, 2007, the Department of Finance submitted a Finance Letter requesting the addition of Control Section 4.04, which would authorize the Director of Finance to reduce all General Fund items of appropriation by an amount not to exceed a total of \$46.3 million. The reduction to any department could not exceed half of the funding provided for the 2007-08 General Fund price increase.

This request resulted from an arbiters’ determination in a compensation dispute between the California Correctional Peace Officer’s Association and the Department of Personnel Administration, costing \$46.3 million. According to the Department of Finance, if this request is not approved the state will have a net operating deficit.

### 4.05 Unallocated General Fund Reductions

The Governor’s Budget includes a \$100 million unallocated reduction for state agencies’ General Fund appropriations. With certain restrictions, the Director of Finance is authorized to make these reductions on a one-time basis. Constitutional officers, the Legislature, higher education, and other specified appropriations are exempt from this reduction. The Director of Finance will report by February 15, 2008, on the nature of the reductions.

### LAO Comment (On Control Sections 4.04 and 4.05)

#### ***Delete Sections for More Honest Budgeting***

*The proposed control sections are unlikely to achieve their targeted levels of savings. In addition, they represent a significant delegation of the Legislature’s authority. Consequently, we recommend that the Legislature delete the sections from the budget bill. (Delete Control Sections 4.04 and 4.05.)*

***Reductions Reflect Administration’s—Not Legislature’s—Priorities.*** Any unallocated reduction authority given to the administration will expose legislative priorities to reductions. An administration naturally will protect its own priorities and sacrifice programs that it deems less important. For example, in the health area, previous reductions have targeted a prostate cancer treatment program and Medi-Cal antifraud activities—both of which were priorities of the Legislature.

***Savings Already Counted.*** Over the past few years, the state budget has included a variety of control sections similar to the ones proposed for 2007-08. Based on recent experience, we estimate that only a fraction of the assumed budget savings would be a net benefit to the state’s bottom line. For instance, in 2006-07, \$117 million of the \$200 million in savings attributed to Control Section 4.05 was from declining debt service on loans and general obligation bonds.

*Another \$24 million was attributed to lower-than-expected usage of a health program. These types of savings are captured on the natural in the “unidentifiable savings” category of the budget. When these types of savings are*

*instead scored under a control section, the practical effect is to reduce the unidentifiable savings item on a dollar-for-dollar basis. The budget, however, assumes the state will still achieve unidentifiable savings in 2007-08 (\$340 million).*

**Other Cuts Will Lead to Future Shortfalls.** *Many of the midyear reductions that have been implemented in the past have been done with minimal detail provided to the Legislature as to how departments are going to absorb the reductions. Often months or years later, the Legislature discovers that programs that were reduced are no longer functioning as expected. In many of these cases, departments come forward with requests for additional funding in the same or future years to make up for the reductions. For example, the 2007-08 budget contains a \$3.2 million request from the Department of Veterans Affairs for equipment purchases. The department reports its entire equipment budget was eliminated through reductions in prior years. Similarly, it is unclear how CDCR will absorb a \$31 million reduction in 2007-08 through Control Section 4.04—given that the department has experienced budget shortfalls of more than \$100 million every year since 2000-01.*

**Recommend Deleting Control Sections.** *Given recent experience with similar control sections and the loss of legislative authority they require, we recommend that both sections be deleted from the budget bill. The administration should identify any specific proposed savings in departmental budgets during the spring budget process and how it expects these savings to be achieved. This would allow the Legislature to understand any programmatic impact from the reductions and protect its own priorities. Moreover, if the administration desires to make appropriation changes once the budget is enacted, it can seek statutory changes.*

**Staff Comment:** The original use of this control section was to reduce departments' budgets through layoffs, hiring freezes, procurement reductions, or other administrative means to achieve reductions. However, in recent years debt financing cost savings and caseload decreases—expenditure adjustments that occur naturally and don't involve departmental reductions—have been increasingly utilized to reach unallocated reduction targets. In the current year, the \$200 million goal was met by recognizing more than \$117 million in reduced general obligation debt service and interest on General Fund loans (a total of \$132 million was actually available), \$24 million in prior years CalGrant and Assumption Program for Loans for Education program savings, and \$24 million in emergency prescription drug coverage underutilization.

An alternative for the Subcommittee to consider for both control sections would be to more narrowly define where savings may be recognized (e.g., reduced general obligation debt service and interest on General Fund loans, CalGrant savings, elimination of boards and commissions, etc.). This would provide greater certainty for departmental budgeting and assure the Legislature that their priorities would be respected.

**Staff Recommendation:** Request DOF respond to the LAO and staff comments.



## APPENDIX A: OCIO TRAILER BILL LANGUAGE

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 11545 of the Government Code is repealed.

~~11545. (a) There is in state government the office of the State Chief Information Officer. The State Chief Information Officer shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The State Chief Information Officer shall be a member of the Governor's cabinet.~~

~~(b) The duties of the State Chief Information Officer shall include, but not be limited to, all of the following:~~

~~(1) Advising the Governor on the strategic management and direction of the state's information technology resources;~~

~~(2) Minimizing overlap, redundancy, and cost in state operations by promoting the efficient and effective use of information technology;~~

~~(3) Coordinating the activities of agency information officers, agency chief information officers, and the Director of Technology Services for purposes of integrating statewide technology initiatives, ensuring compliance with information technology policies and standards, and promoting alignment of information technology resources and effective management of information technology portfolios;~~

~~(4) Working to improve organizational maturity and capacity in the effective management of information technology;~~

~~(5) Establishing performance management and improvement processes to ensure state information technology systems and services are efficient and effective.~~

SEC. 2. Chapter 5.7 (commencing with Section 11545) is added to Part 1 of Division 3 of Title 2 of the Government Code, to read:

## CHAPTER 5.7. STATE CHIEF INFORMATION OFFICER

11545. (a) There is in state government the office of the State Chief Information Officer. The State Chief Information Officer shall be appointed by, and serve at the pleasure of, the Governor, subject to Senate confirmation. The State Chief Information Officer shall be a member of the Governor's cabinet.

(b) The duties of the State Chief Information Officer shall include, but not be limited to, all of the following:

(1) Advising the Governor on the strategic management and direction of the state's information technology resources, and adopting for all state agencies an information technology vision, strategic plans, policies, standards, and enterprise architecture.

(2) Minimizing overlap, redundancy, and cost in state operations by promoting the efficient and effective use of information technology.

(3) Coordinating the activities of agency information officers, agency chief information officers, managers responsible for directing and managing entire enterprise information technology projects, and the Director of Technology Services for purposes of integrating statewide technology initiatives, ensuring compliance with information technology policies and standards, and promoting alignment of information technology resources and effective management of information technology portfolios.

(4) Working to improve organizational maturity and capacity in the effective management of information technology.

(5) Establishing performance management and improvement processes to ensure that state information technology systems and services are efficient and effective.

(6) Managing the approval, oversight, and life-cycle processes for information technology projects.

11546. (a) The office of the State Chief Information Officer shall lead an annual strategic planning process, the results of which shall guide the acquisition, management and use of information technology. State agencies shall cooperate with the office in this planning process by providing, on a timely basis, any reports required by the office.

(b) After the formal adoption and issuance by the State Chief Information Officer of the annual information technology strategic plan, he or she shall take all appropriate steps to implement the goals, objectives, and action items contained in the plan, subject to any modifications and adjustments during the year he or she deems necessary and reasonable.

11547. The office of the State Chief Information Officer shall have the following responsibilities relating to information technology portfolio and project approval, management, and oversight:

(a) Establish and maintain a framework of policies, procedures, and requirements for the initiation, approval, implementation, management and oversight of information technology projects. The policies, procedures, and requirements shall promote innovation and best practices in government operations. The office shall have responsibility for maintaining the information technology sections in the State Administrative Manual, except for sections on information technology procurement and security.

(b) As the State Chief Information Officer deems necessary, possess and control all relevant records and papers held for the benefit and use of the former Department of Information Technology in the performance of its statutory duties, powers, purposes, and responsibilities, and of the Office of Technology Review, Oversight and Security within the Department of Finance in the performance of its duties, powers, purposes, and responsibilities, except for records and papers with respect to information technology security.

(c) Establish and maintain criteria for agencies to report information technology activities to the office.

(d) Assess agencies on their performance of project management, project oversight and project success, and notwithstanding Section 7550.5, annually report the overall assessment findings to the Governor and the Legislature.

11548. The office of the State Chief Information Officer may exercise the following powers relating to information technology project approval, management, and oversight:

(a) (1) Grant or withhold approval to initiate information technology projects. In making this determination, the office shall review proposed information technology projects for compliance with statewide strategies, policies, and procedures, and in light of recognized best practices. The office shall consult with the Department of Finance to determine the likely availability of funding from appropriate sources for a project and to assess the project's likely importance with respect to other budget priorities.

(2) The State Chief Information Officer shall evaluate the benefits and costs of an information technology project and assess its business case justification. The

Department of Finance shall limit its review and consideration of an information technology project to identifying the availability of funds and prioritizing that expenditure against other budget priorities.

(b) Require agencies to provide information on information technology projects, including, but not limited to, all of the following:

- (1) The degree to which the project is within approved scope, cost, and schedule.
- (2) All project issues, risks and remediation efforts.
- (3) The estimated schedule and costs for project completion.

(c) Require agencies to perform remedial measures for information technology projects to achieve compliance with approved project scope, cost, and schedule, as well as statewide strategies, policies, and procedures. These remedial measures may include, but are not limited to, all of the following:

- (1) Conducting independent assessments of project activities funded by the administering agency.
- (2) Establishing remediation plans.
- (3) Hiring vendors with project-required technical experience funded by the administering agency.
- (4) Requiring additional project reporting.
- (5) Requiring the agency administering the project to obtain the office's approval to initiate any phase, task, or step that is identified in the approved project schedule.

(d) Request the Office of State Audits and Evaluations in the Department of Finance to conduct reviews of information technology projects to determine the degree to which they are within approved scope, cost, and schedule, and the degree to which

any required remediation activities have been successful. The cost of the review shall be funded by the agency administering the project.

(e) Establish restrictions or other controls to mitigate nonperformance by agencies, including, but not limited to, both of the following:

(1) Restriction of future project approvals for nonmandated projects pending demonstration of successful correction of the identified performance failure.

(2) Revocation or reduction of delegated authority.

(f) Suspend, reinstate, or terminate information technology projects. The office shall notify the Legislature of all project suspensions, reinstatements, and terminations.

(g) Delegate to an agency any authority under this section the office determines is appropriate given the agency's ability to manage information technology projects.

11548.5. (a) Employees of the Office of Technology Review, Oversight and Security within the Department of Finance, except employees assigned to the security unit of that office, shall be transferred to the office of the State Chief Information Officer.

(b) The status, position, and rights of any employee transferred pursuant to subdivision (a) shall not be affected by the transfer.

11549. This chapter shall not apply to the University of California, the California State University, the State Compensation Insurance Fund, the community college districts, agencies provided for by Article VI of the California Constitution, the Legislature, or the Legislative Data Center of the Legislative Counsel Bureau.

## APPENDIX B: TRAILER BILL TO DEPARTMENT OF FINANCE MANDATE PROCESS REFORMS

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 17518.5 of the Government Code is repealed.

~~17518.5. (a) "Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets the following conditions:~~

~~(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.~~

~~(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.~~

~~(b) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.~~

~~(c) A reasonable reimbursement methodology may be developed by any of the following:~~

~~(1) The Department of Finance.~~

~~(2) The Controller.~~

~~(3) An affected state agency.~~

~~(4) A claimant.~~

~~(5) An interested party.~~

SEC. 2. Section 17564 of the Government Code is amended to read:

17564. (a) No claim shall be made pursuant to Sections 17551~~and~~, 17561, and 17573, nor shall any payment be made on claims submitted pursuant to Sections 17551 and 17561, or pursuant to a legislative determination under Section 17573, unless these claims exceed one thousand dollars (\$1,000), ~~provided that~~. However a county superintendent of schools or county may submit a combined claim on behalf of school districts, direct service districts, or special districts within their county if the combined claim exceeds one thousand dollars (\$1,000) even if the individual school district's, direct service district's, or special district's claims do not each exceed one thousand dollars (\$1,000). The county superintendent of schools or the county shall determine if the submission of the combined claim is economically feasible and shall be responsible for disbursing the funds to each school, direct service, or special district. These combined claims may be filed only when the county superintendent of schools or the county is the fiscal agent for the districts. All subsequent claims based upon the same mandate shall only be filed in the combined form unless a school district, direct service district, or special district provides to the county superintendent of schools or county and to the Controller, at least 180 days prior to the deadline for filing the claim, a written notice of its intent to file a separate claim.



(b) Claims for direct and indirect costs filed pursuant to Section 17561 shall be filed in the manner prescribed in the parameters and guidelines and claiming instructions.

SEC. 3. Article 1.5 (commencing with Section 17573) is added to Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, to read:

#### Article 1.5. Alternative Procedure

17573. (a) Notwithstanding Section 17551, the Department of Finance and a local agency may jointly request that the Legislature determine if a local agency is entitled to reimbursement of costs mandated by the state as required by Section 6 of Article XIII B of the California Constitution and to establish a reimbursement amount.

(b) A joint request made under subdivision (a) shall identify the statute or executive order for which a legislative determination of a state mandate is requested and specify the dollar amount necessary to reimburse local agencies for costs mandated by that statute or executive order.

(c) A joint request authorized by this section may be filed at any time after enactment of a statute or issuance of an executive order, regardless of whether a test claim regarding the same statute or executive order is pending with the commission.

(d) If the Legislature determines that the local agency is entitled to be reimbursed by the state for the costs mandated by the statute or executive order, it shall appropriate in the Budget Act or other bill funds sufficient to make that reimbursement or, pursuant

to Section 17581, suspend the operation of that statute or executive order until funds for that reimbursement are appropriated.

17574. If a local agency has filed a test claim with the commission regarding the same statute or executive order for which the Legislature has appropriated funds for reimbursement in response to a joint request of that agency and the Department of Finance pursuant to Section 17573, the local agency shall withdraw that test claim.

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## APPENDIX C: MANDATES TRAIL BILL LANGUAGE: LEGISLATIVE ANALYST'S OFFICE VERSION

SECTION 1. Section 17518.5 of the Government Code is amended to read:

17518.5. (a) "Reasonable reimbursement methodology" means a formula for reimbursing local agency and school district costs mandated by the state that meets *one of* the following conditions:

(1) The total amount to be reimbursed statewide is equivalent to total estimated local agency and school district costs to implement the mandate in a cost-efficient manner.

(2) For 50 percent or more of eligible local agency and school district claimants, the amount reimbursed is estimated to fully offset their projected costs to implement the mandate in a cost-efficient manner.

*(b) A reasonable reimbursement methodology may meet one of the conditions in subdivision (a) if it is based on cost information from a representative sample of eligible claimants, information provided by associations of affected local governments, or other projections of local costs.*

~~—(b)~~

(c) Whenever possible, a reasonable reimbursement methodology shall be based on general allocation formulas, uniform cost allowances, and other approximations of local costs mandated by the state, rather than detailed documentation of actual local costs. In cases when local agencies and school districts are projected to incur costs to implement a mandate over a period of more than one fiscal year, the determination of a reasonable reimbursement methodology may consider local costs and state reimbursements over a period of greater than one fiscal year, but not exceeding 10 years.

~~—(c)~~

(d) A reasonable reimbursement methodology may be developed by any of the following:

- (1) The Department of Finance.
- (2) The Controller.
- (3) An affected state agency.
- (4) A claimant.
- (5) An interested party.

SEC. 2. Section 17521.5 is added to the Government Code, to read:

17521.5. "Legislatively determined mandate" means the provisions of a statute or executive order that the Legislature has declared by statute to be a mandate for which reimbursement is required by Section 6 of Article XIII B of the California Constitution.

SEC. 3. Section 17557.1 is added to the Government Code, to read:

17557.1. (a) Notwithstanding any other provision of this part,

within 30 days of the commission's adoption of a statement of decision on a test claim, the test claimant and the Department of Finance may notify the executive director of the commission by letter of their intent to use the alternate process outlined in this section to draft negotiated parameters and guidelines that will be based on a reasonable reimbursement methodology. This letter of intent by the test claimant and department shall specify the following:

(1) The date when the test claimant and department will provide to the executive director an informational update regarding their progress.

(2) The plan of the test claimant and department to ensure that costs from a representative sample of eligible local government claimants are considered.

(3) The date when the test claimant and department will submit to the executive director the draft negotiated parameters and guidelines, statewide cost estimate, and estimate of cost for the initial claiming period. This date shall be no later than 180 days after the date the letter of intent is sent by the test claimant and department to the executive director, although the executive director may provide for up to four 30-day extensions of this 180-day period at the request of the test claimant and department.

(b) The test claimant or department may notify the executive director at any time that the claimant or department no longer intends to use the alternate process. In this case, the requirements of paragraph (2) of subdivision (a) of Section 17553 and Section 17557 shall apply. Upon receipt of this notification, the executive director shall notify the test claimant of the duty to submit proposed parameters and guidelines within 30 days under subdivision (a) of Section 17557.

SEC. 4. Section 17557.2 is added to the Government Code, to read:

17557.2. (a) When a test claimant and the Department of Finance decide to proceed under the alternate process pursuant to Section 17557.1, they shall develop a reasonable reimbursement methodology that is supported by a wide range of affected local governments. The test claimant and department may determine the level of local support in different ways, including, but not limited to, obtaining endorsement by statewide associations of affected local governments and securing letters of approval from a majority of responding affected local governments. The reasonable reimbursement methodology shall specify a date after which the department and test claimant agree to reconsider the methodology and jointly propose amendments under this section.

(b) No later than 60 days before a commission hearing, the claimant and department shall submit to the commission the draft negotiated parameters and guidelines, an estimate of the mandate's annual statewide costs and costs for the initial claiming period, and a report that describes the steps the test claimant and the department undertook to determine the level of local support for the reasonable reimbursement methodology.

(c) If the commission, upon review of all information submitted pursuant to Section 17557.1 and this section, determines that the draft negotiated parameters and guidelines and cost estimates satisfy the requirements of these sections, it shall adopt the parameters and guidelines, statewide cost estimate, and estimate of costs for the initial claiming period. Statewide cost estimates adopted under this section shall be included in the report to the Legislature required under Section 17600.

SEC. 5. Article 2.5 (commencing with Section 17590) is added to Chapter 4 of Part 7 of Division 4 of Title 2 of the Government Code, to read:

Article 2.5. Early Settlement of Claims

17590. The Legislature finds and declares all of the following:

(a) Early settlement of mandate claims will allow the commission to focus its efforts on rendering sound quasi-judicial decisions regarding complicated disputes over the existence of state-mandated local programs.

(b) Early settlement of mandate claims will provide timely information to the Legislature regarding local costs of state requirements and timely reimbursement to local governments.

(c) It is the intent of the Legislature to provide for an orderly process for settling mandate claims in which the parties are in substantial agreement. Nothing in this article diminishes the right of a local government that chooses not to accept reimbursement pursuant to this article from filing a test claim with the commission or taking other steps to obtain reimbursement pursuant to Section 6 of Article XIII B of the California Constitution.

17591. (a) With respect to any statute or executive order that may impose a mandate for which reimbursement is required by Section 6 of Article XIII B of the California Constitution, the Department of Finance, in consultation with local governments, may seek to have the Legislature make the required reimbursement by submitting to the Legislature a proposal that includes all of the following:

(1) The provisions of any statute or executive order that impose a requirement on local governments.

(2) A reasonable reimbursement methodology.

(3) A list of eligible claimants.

(4) An estimate of statewide costs and costs for the initial claiming period.

(5) Information indicating significant support among affected local governments for the proposed reasonable reimbursement methodology, which may include, but not be limited to, endorsements by statewide associations of affected local governments and letters of approval by a majority of responding affected local governments.

(b) If the Legislature determines that the statute or executive order imposes a mandate for which reimbursement is required by Section 6 of Article XIII B of the California Constitution, it shall declare by statute that the requirements of the statute or executive

order are a legislatively determined mandate and adopt the reasonable reimbursement methodology for reimbursing affected local governments their costs of complying with the mandate. The Legislature may amend this methodology periodically, upon the recommendation of the department, a local government, or other interested party.

(c) The Legislature may repeal or modify a legislatively determined mandate, or suspend it pursuant to Section 17581 or Section 17581.5.

(d) By accepting a payment to reimburse its costs pursuant to the methodology adopted by the Legislature in connection with a legislatively determined mandate, a local agency or school district agrees to the following terms and conditions:

(1) The payment constitutes full reimbursement of its costs for that mandate for the applicable time period.

(2) The reasonable reimbursement methodology upon which the payment is calculated shall be an appropriate reimbursement methodology for the local government for the next four years.

(3) The local government has withdrawn any test claim pending before the commission regarding this mandate and will not file a new test claim on this mandate for four years after the date of the first payment unless the state changes the reasonable reimbursement methodology to provide a lesser amount of funds to the local government or the state fails to make the specified reimbursement payment but does not repeal or suspend the mandate.

## APPENDIX D: DEPARTMENT OF THE MILITARY TRAILER BILL LANGUAGE

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THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 4.5 (commencing with Section 901) is added to Division 4 of the Military and Veterans Code, to read:

### CHAPTER 4.5. THE CALIFORNIA NATIONAL GUARD EDUCATION ASSISTANCE PROGRAM

901. (a) The California National Guard Education Assistance Program is hereby established to promote recruiting and retention of California National Guard membership through reimbursement of approved postsecondary education costs. The Adjutant General shall adopt program regulations that shall include the following provisions:

- (1) Eligibility requirements for program participation.
- (2) Definition of reimbursable costs.
- (3) Definition of participant benefits and responsibilities.
- (4) Policies and procedures for program administration.

(b) The Adjutant General shall have the final authority with respect to program administration.